

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Application of: CLASSEN, John Barthelow  
 Serial No.: 08/591,651  
 Filed: February 12, 1996  
 For: METHOD AND COMPOSITION FOR AN EARLY VACCINE TO...  
 Confirmation No.: 9417

Art Unit: 1648  
 Examiner: SALVOZA, M.  
 Washington, D.C.  
 Atty.'s Docket: CLASSEN-1A  
 Date: March 27, 2007

U.S. Patent and Trademark Office  
 Customer Service Window  
 Randolph Building  
 401 Dulany Street  
 Alexandria, VA 22314



Sir:  
 Transmitted herewith is an ☒ Election with Traverse in the above-identified application.  
☐ Small entity status of this application under 37 CFR 1.9 and 1.27 has been established by a verified statement previously submitted.  
☐ Small entity status of this application under 37 CFR 1.9 and 1.27 has been previously asserted.  
☐ A verified statement to establish small entity status under 37 CFR 1.9 and 1.27 is enclosed.  
☐ No additional fee is required.

The fee has been calculated as shown below:

| (Col. 1)                                       | (Col. 2)                        | (Col. 3)      | Small Entity | Other Than a Small Entity |
|--|---------------------------------|---------------|--------------|---------------------------|
| Claims Remaining After Amendment               | Highest No. Previously Paid For | Present Extra | Rate         | Additional Fee            |
| Total  | Minus                           | 0             | x 25         | \$                        |
| Indep.   | Minus                           | 0             | x100         | \$                        |
| First Presentation of Multiple Dependent Claim |                                 |               | 180          | \$                        |
| TOTAL ADDITIONAL CLAIMS FEE                    |                                 |               |              | \$                        |
|  |                                 |               |              | Total \$                  |

- \* If the entry in Col. 1 is less than the entry in Col. 2, write "0" in Col. 3.
- \*\* If the "Highest Number Previously Paid For" IN THIS SPACE is less than 20, write "20" in this space.
- \*\*\* If the "Highest Number Previously Paid For" IN THIS SPACE is less than 3, write "3" in this space.

The "Highest Number Previously Paid For" (total or independent) is the highest number found from the equivalent box in Col.1 of a prior amendment of the number of claims originally filed.

☒ Conditional Petition for Extension of Time  
 If any extension of time for a response is required applicant requests that this be considered a petition therefor.

☒ It is hereby petitioned for an extension of time in accordance with 37 CFR 1.136(a). The appropriate fee required by 37 CFR 1.17 is calculated as shown below:

| Small Entity<br>Response Filed Within   | Other Than Small Entity<br>Response Filed Within |
|---|--|
| <input checked="" type="checkbox"/> First - \$ 60.00                                  | <input type="checkbox"/> First - \$ 120.00       |
| <input type="checkbox"/> Second - \$ 225.00   | <input type="checkbox"/> Second - \$ 450.00      |
| <input type="checkbox"/> Third - \$ 510.00  | <input type="checkbox"/> Third - \$1020.00       |
| <input type="checkbox"/> Fourth - \$ 795.00   | <input type="checkbox"/> Fourth - \$1590.00      |
| <input type="checkbox"/> Fifth - \$1080.00  | <input type="checkbox"/> Fifth - \$2160.00       |
| <input type="checkbox"/> Less fees (\$ ) already paid for months extension of time on |  |

☐ Please charge my Deposit Account No. 02-4035 in the amount of \$ . A duplicate copy of this sheet is attached.

☐ A check in the amount of \$ is attached (check no. ).

☒ Credit Card Payment Form, PTO-2038, authorizing payment in the amount of \$60.00 is attached.

☒ The Commissioner is hereby authorized and requested to charge any additional fees which may be required in connection with this application or credit any overpayment to Deposit Account No. 02-4035. This authorization and request is not limited to payment of all fees associated with this communication, including any Extension of time fee, not covered by check or specific authorization, but is also intended to include all fees for the presentation of extra claims under 37 CFR Section 1.16 and all patent processing fees under 37 CFR Section 1.17 throughout the prosecution of the case.

This blanket authorization does not include patent issue or publication fees under 37 CFR Section 1.18.

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 Registration No. 28,005

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|                             |   |                        |
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| FOR AN EARLY VACCINE TO     | ) |                        |
| PROTECT AGAINST BOTH...     | ) | Confirmation No.: 9417 |

ELECTION WITH TRAVERSE

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S i r :

In response to the supplemental restriction requirement mailed December 13, 2006, directed to added claims 266-303, applicants elect the species of claim 276, i.e., the immunogenic agent is "at least nonavalent".

The restriction is traversed because the species are clearly overlapping in the sense that a nonavalent agent can comprise the immunogens included in an octavalent, nonavalent, etc. agent. In addition, claim 275 ("at least octavalent") includes nonavalent agents.

The restriction is also traversed on the ground that generic claims are allowable. Claims 266, 267, 277-283, and 292-303 were identified as generic. As to the remainder of the added claims, claims 275, 276, and 291 all read on the elected species.

Respectfully submitted,

BROWDY AND NEWMARK, P.L.L.C.  
Attorneys for Applicant

By: \_\_\_\_\_

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